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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,808

09/11/2003

Frederick T. Bauer

AUTO 821-C1

5234

28167

7590

12/21/2004

BRIAN J. REES

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600 NORTH CENTENNIAL STREET

ZEELAND, MI 49464

EXAMINER

BEN, LOHA

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/659,808	Applicant(s) BAUER ET AL.	
	Examiner LOHA BEN	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9, 12, 14, 15, 20-22, 25, 27, 28, 33-35 and 38 is/are rejected.
- 7) ☒ Claim(s) 3-6, 10, 11, 13, 16-19, 23, 24, 26, 29-32, 36, 37 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.



**Loha Ben**  
**Primary Examiner**

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Response to Amendment***

**Note:** (1) Exhibits B and C are not received; and (2) no dates that can be used as evidence of reduction to practice are seen on exhibit A. Due to the missing of these elements, clear comments on the declaration submitted cannot be properly given.

Even if every necessary item of the declaration is provided, the declaration is now moot as a result of new art found.

Any inconvenience this may have caused applicants is sincerely regretted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 8, 12, 14, 15, 20, 21, 25, 27, 28, 33, 34 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Ise et al.

Regarding claim 1, Ise et al teaches an optical sensor system, comprising at least one optical sensor (26) and at least one lens (23); and at least one electro-optic variable aperture (10) positioned between the sensor and the lens along an optical axis of the sensor. Please see Figs. 1 and 3.

Regarding claim 2, please see Fig. 1, and column 6, lines 50-60.

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Regarding claims 7 and 8, the varying concentrations of active materials can be obtained from varying voltages. Please note column 4, lines 12-19, and column 5, line 25 to column 6, line 67.

For claims 12, 25 and 38, lines 25-30 of column 5 of Ise et al should be considered, where the electrochromic element is comprised of silver iodine and sodium iodine which is interpreted, relatively speaking, to mean high concentration.

Claims 14, 15, 20 and 21; and claims 27, 28, 33 and 34 are recited in a broader fashion as compared with claims 1, 2, 7 and 8, respectively. Therefore, disclosure portions used to reject these claims are the same as those given for claims 1, 2, 7 and 8 above.

Claims 14, 15, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Udaka.

The optical system of Udaka is substantially the same as that of Ise et al.

For a comparison analysis, Figs. 7 and 8, and the disclosure in column 7, lines 36 to column 8, line 38, and column 9, lines 57-60, of Udaka, should be considered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 2, 7-9, 12, 22, 25, 27, 28, 33-35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Udaka.

Udaka teaches the invention substantially as claimed in the above claims, except for the specific disclosure as to the arrangement of the device with respect the lens and the sensor.

The device of Udaka ( that works like a variable optical filter ), **as suggested** on lines 14-38 of column 8, can be used for a CCD ( sensor ) in television camera. In a conventional camera, one or more lenses are used with a variable optical filter ( usually composed an iris and a variable ND filter ) positioned between a lens and a sensor. Therefore, if the device of Udaka were used in such a camera, this device would be arranged between the lens and the sensor.

In view of the above indication, it is seen that it would have been obvious to one skilled in the art at the time of invention to replace the conventional variable optical filter with the variable optical filter of Udaka since the latter is more economical because it is small in size and consumes less power.

As a further note, particularly for claims 9, 12, 22, 25, 35 and 38, where the inner ring comprises a higher sheet resistance ( claims 9, 22 and 35 ) than at least one outer ring, and where the electro-optic variable aperture comprises a highly concentrated electro-optic medium ( claims 12, 25 and 38 ), reference should be made to column 2, lines 11-24, column 6, lines 32-40, column 7, line 65 to column 8, line 20.

#### **Allowable Subject Matter**

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Claims 3-6, 10, 11, 13, 16-19, 23, 24, 26, 29-32, 36, 37 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Communication**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loha Ben whose telephone number is (571) 272-2323. The examiner can normally be reached on Monday to Saturday, generally between 12:00 noon and 8: 00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps, can be reached on Monday to Friday, at (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 16, 2004

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A handwritten signature in black ink, appearing to read 'Loha Ben', with a long horizontal stroke extending to the right.

**Loha Ben**  
**Primary Examiner**